

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

1998 Biennial Regulatory Review --)
Reform of the International Settlements)
Policy and Associated Filing Requirements)

Regulation of International)
Accounting Rates)

IB Docket No. 98-148

CC Docket No. 90-337

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COMMENTS OF BELL SOUTH CORPORATION

BellSouth Corporation ("BellSouth"), on behalf of itself and its affiliates, respectfully submits the following comments in support of the Commission's proposals in the above-captioned proceeding.

BellSouth is a recent entrant in the market for international services.¹ Through its affiliates and its investments in carriers providing services in foreign countries, BellSouth seeks to offer a variety of services to compete with established carriers on several international routes. Each of BellSouth's affiliates lacks market power in its home country and on routes to the United

¹ Until such time as BellSouth or one of its affiliates or subsidiaries is authorized to originate interLATA services in the BellSouth Region, in accordance with the provisions of Section 271 of the Communications Act of 1934, as amended, 47 U.S.C. § 271, BellSouth will originate in the United States only facilities-based and resold international telecommunications services outside the BellSouth Region. Upon the prompt grant of Section 271 authorization, BellSouth also will originate international telecommunications services within the BellSouth Region. The "BellSouth Region" is comprised of the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

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States. As a new international carrier, BellSouth generally supports the FCC's proposals to remove unnecessary regulatory constraints on U.S. carriers that may prevent them from adopting flexible, alternative service arrangements. BellSouth believes that the Commission's policies should encourage competition by promoting innovative traffic routing arrangements, such as hubbing and international simple resale ("ISR").

BellSouth supports the FCC's proposals to remove or at least relax its International Settlements Policy ("ISP"). Specifically, BellSouth agrees that the FCC need no longer apply the ISP and related filing requirements to arrangements between U.S. carriers and foreign carriers from WTO Member countries that lack market power in the relevant foreign telecommunications market,² or with which ISR has been authorized.³ As the Commission noted, the threat of "whipsawing" by a foreign carrier lacking market power is virtually non-existent.⁴ Moreover, foreign carriers, including foreign affiliates of U.S. carriers, that do not have market power on a specific route simply do not have the ability to affect the flow of traffic between U.S. and foreign points. Thus, there is no need to subject such arrangements to the ISP.

BellSouth also supports the FCC's proposal to lift ISP requirements for U.S. carrier arrangements with foreign carriers in liberalized markets and on competitive routes.⁵

² In the Matter of 1998 Biennial Regulatory Review, Reform of the International Settlements Policy and Associated Filing Requirements, IB Docket No. 98-148; Regulation of International Accounting Rates, CC Docket No. 90-337, Notice of Proposed Rulemaking, FCC No. 98-190, ¶ 18 (rel. Aug. 6, 1998) [hereinafter "Notice"].

³ Id. ¶ 27.

⁴ Id. ¶¶ 18-20.

⁵ Id. ¶¶ 25-27.

Competitive markets generally already have low settlement rates, allow ISR, or offer equivalent competitive opportunities to U.S. carriers. Thus, any remaining possibility of whipsawing is outweighed by the procompetitive effects that will ensue once the Commission removes the ISP.

The Commission should not adopt its proposed preconditions for lifting the ISP in these circumstances, however. The proposals to require "best practices" settlement rates,⁶ or a combination of below-benchmark settlement rates and authorization of ISR in the foreign market,⁷ are too strict and will hinder the Commission's otherwise progressive policy reforms. Consistent with the Commission's intent in reforming the ISP, U.S. carriers should not be restricted from engaging in innovative, alternative routing arrangements with foreign carriers merely because their markets do not allow ISR or because the settlement rate is slightly above the benchmark. Clearly, allowing alternative settlement arrangements has proven a more rapid means of encouraging further liberalization in foreign markets than the rigid application of the ISP.

To the extent the Commission adopts these policies, some or all of the Flexibility Policy may well become moot, as the Commission noted.⁸ To the extent, however, that the Flexibility Policy remains intact following this proceeding, BellSouth continues to support that policy. Consistent with the Commission's proposals, BellSouth believes that minor modifications to the Commission's present filing requirements are necessary to ensure that those requirements are neither overbroad nor underinclusive.

⁶ Id. ¶ 28.

⁷ Id. ¶ 29.

⁸ Id. ¶ 36.

BellSouth strongly supports the Commission's proposal to maintain the requirement that any alternative settlement arrangement affecting more than 25% of the outbound or inbound traffic on a particular route must be filed.⁹ BellSouth likewise supports the proposed requirement restricting such arrangements from containing unreasonably discriminatory terms.¹⁰ When the Commission adopted the Flexibility Order,¹¹ it found that the filing requirement was needed to provide a "safety net" for possible unanticipated consequences of the Flexibility Policy. BellSouth believes that the Commission's proposals to relax the Flexibility Policy or to eliminate the ISP altogether pose an even greater need for this specific precautionary measure. Currently, only one or two carriers have significant market shares on most international routes. Most newer competitors have a very small market share, few relationships with foreign carriers, and little bargaining power compared with the more established U.S. international carriers. For the same reasons, the Commission should reject AT&T's argument that a carrier's share of the outbound market should be irrelevant in determining whether a carrier has reached the 25% threshold.¹²

The Commission should, however, modify its current policy requiring the filing of flexible arrangements entered into with affiliated carriers and non-equity joint venture partners. The Commission should eliminate the filing requirement with respect to flexible

⁹ Id. ¶ 34.

¹⁰ Id.

¹¹ Regulation of International Accounting Rates, CC Docket No. 90-337, Phase II, Fourth Report and Order, 11 FCC Rcd 20,063, 20,081-84, ¶¶ 44-51 (1996).

¹² Notice, ¶ 50.

arrangements between U.S. carriers and their foreign affiliates lacking market power. As the Commission noted, there is little, if any, danger that flexible arrangements with carriers lacking market power will have anticompetitive effects.¹³

BellSouth also supports the Commission's proposal to increase competition in international markets by permitting ISR on more routes.¹⁴ ISR has proven to be an effective tool for lowering settlement rates around the world. Adopting a policy to allow ISR on more routes once ISR has been approved on 50% of international routes (consistent with preventing one-way bypass) will not only have procompetitive effects worldwide, it will also underline the U.S. government's leadership role in fostering competition in markets for international telecommunications services.

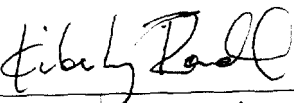
¹³ Id. ¶ 34.

¹⁴ Id. ¶ 37-38.

For the foregoing reasons, the Commission should adopt its proposals to remove or relax the ISP and associated rules in accordance with these comments.

Respectfully submitted,

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